

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Joshua Copenhaver Nelson,

Plaintiff,

v.

Case NO. 2:12-cv-1167

Wanza Jackson, et al.,

Defendants.

ORDER

This matter is before the court for consideration of the report and recommendation of the magistrate judge filed on July 18, 2013. The magistrate judge recommended that defendants' motion to dismiss be granted in part and denied in part, and that plaintiff's motion for a preliminary injunction be denied.

The report and recommendation specifically advised the parties that the failure to object to the report and recommendation within fourteen days "will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*." Doc. 45, p. 42. The time period for filing objections to the report and recommendation has expired, and no objections have been filed.

The court has reviewed the report and recommendation. Noting that no objections have been filed and that the time for filing such objections has expired, the court adopts the report and recommendation (Doc. 45).

Accordingly, the defendants' motion to dismiss (Doc. 36) is granted in part and denied in part. The motion to dismiss is granted as to the following claims: (1) the official capacity

claims against all defendants for monetary damages; (2) plaintiff's First and Eighth Amendment and Religious Land Use and Institutionalized Persons Act ("RLUIPA") claims against all defendants based on the service of non-kosher dairy products and service of only fresh apples; and (3) plaintiff's First and Eighth Amendment and RLUIPA claims against defendant Cahill based on the service of meat and dairy together at the same meal.

The motion to dismiss is denied as to the following claims: (1) plaintiff's claims against all defendants under the Equal Protection Clause and 42 U.S.C. §§1985, 1988 and 2000d; (2) plaintiff's First and Eight Amendment and RLUIPA claims against defendants Gallaer and Jackson based on the service of meat and dairy together at the same meal and requiring plaintiff to cook his meal on the Sabbath; (3) plaintiff's First and Eight Amendment and RLUIPA claims against defendant Cahill based on requiring plaintiff to cook his meal on the Sabbath; and (4) claims against defendants in their official capacities for prospective injunctive relief.

Plaintiff's motion for a preliminary injunction (Doc. 12) is denied.

It is so ordered.

Date: August 20, 2013

s/James L. Graham
James L. Graham
United States District Judge